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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/534,716	11/15/2005	Thomas Sagel	SAGEL4	6838
1444 7590 08/01/2008 BROWDY AND NEIMARK, P.L.L.C. 624 NINTH STREET, NW SUITE 300 WASHINGTON, DC 20001-5303				
EXAMINER				
ING, MATTHEW W				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/534,716

Applicant(s)

SAGEL ET AL.

Examiner

MATTHEW W. ING

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 May 2005.
2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-14 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☒ The drawing(s) filed on 12 May 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date 12 May 2005
4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement (IDS) submitted on 12 May 2005 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the elongated holes on the frame (claim 9) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 1 fail(s) to recite sufficient structural elements and interconnection of the elements to positively position and define the structure(s) & component(s) whereby the locking latch is "horizontally elastically guided", so that an integral structure able to function as claimed is recited.
6. Claim 8 fail(s) to recite sufficient structural elements and interconnection of the elements to positively position and define the structure(s) & component(s) whereby "the spacing between the respective adjustment strap and fastening block being adjusted by means of adjustment screws", so that an integral structure able to function as claimed is recited.
7. Regarding claim 1, the term "the frame" in line 2 lacks antecedent basis in the claim.
8. Regarding claim 2, the term "the lower frame segment" in line 2 lacks antecedent basis in the claim.
9. Regarding claim 2, the term "the frame" in line 2 lacks antecedent basis in the claim.
10. Regarding claim 3, the term "the lower frame segment" in line 2 lacks antecedent basis in the claim.

11. Regarding claim 4, the term "the front" in line 3 lacks antecedent basis in the claim.
12. Regarding claim 5, the term "the bolts" in line 1 lacks antecedent basis in the claim.
13. Regarding claim 5, the term "the front bolts" in line 2 lacks antecedent basis in the claim.
14. Regarding claim 6, the term "the front segment" in line 2 lacks antecedent basis in the claim.
15. Regarding claim 6, it is unclear what component(s) the phrase "vertically spaced apart on the furniture front and by means of two adjustment blocks that are screwed to the frame in a matching fashion" is supposed to limit.
16. Regarding claim 8, the term "the spacing" and "the respective adjustment strap" in line 2 lacks antecedent basis in the claim.
17. Regarding claim 8, the term "fastening block" in line 3 lacks antecedent basis in the claim.
18. Regarding claim 9, the term "the frame" in line 2 lacks antecedent basis in the claim.
19. Regarding claim 11, it is unclear how a bolt can also be a nut, as recited in the claim.
20. Claims 7, 10, & 12-14 are considered indefinite since they depend from an indefinite base claim.

Claim Rejections - 35 USC § 103

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3637

22. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

23. Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966) in view of Bowzer (2,546,149). Fulterer teach(es) the structure substantially as claimed, including mounting hardware for a tall-cabinet pullout having a furniture front (29) attached on a vertical central rigid frame (40), wherein the frame (40) is affixed to an upper (28) and on a lower (2, 39, 4) telescopic rail, characterized in that the frame (40) is adjusted with respect to its height on the lower telescopic rail (2, 39, 4) by means of a height adjustment screw (15). The only difference between Fulterer and the invention as claimed is that Fulterer fail(s) to teach a frame comprising two height adjustment screws; wherein said frame is locked in place by means of a locking latch that is horizontally elastically guided in the lower frame segment. Bowzer, however, teaches a locking latch (6) that is horizontally guided in a structure (2). Additionally, Bowzer teaches elastically guiding a structure (38). Additionally, regarding the quantity of height adjustment screws, it is noted that mere duplication of the essential working parts of a device has been held to involve only routine skill in the art. It would have been obvious to one of ordinary skill in the art to include a second height adjustment screw in order to provide redundancy & additional structural support; and to include a latch, as taught by Bowzer, in order to allow locking of the structure of Fulterer; and to make said latch elastically guided, as

taught by Bowzer, in order to increase the locking capability thereof, thereby providing the structure substantially as claimed.

24. Regarding claim 2, Fulterer teaches a height adjustment screw (15) extending through a lower frame segment (4) and having a support surface (32) and screw head (34). Additionally, Bowzer teaches a head (either 26 or 28) as a catch for a locking latch (6).

25. Regarding claim 3, Bowzer teaches a locking latch (6) sufficiently long that it protrudes from a structure (2) and capable, if modified, of being pushed against a spring for unlocking. The examiner points out that mere reversal of the essential working parts of a device has been held to involve only routine skill in the art.

26. Claims 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966) and Bowzer (2,546,149) as applied to the claim(s) above, further in view of Willcox (4,746,152) & Fraccaro (6,390,574). Fulterer & Bowzer teach(es) the structure substantially as claimed, including an upper telescopic rail (28), and a rail (2, 39, 4) having bolts. The only difference between Fulterer & Bowzer and the invention as claimed is that Fulterer & Bowzer fail(s) to teach an upper telescopic rail are two bolts, one behind the other, to which the frame is fixed laterally guided by means of a guide block inserted from the front and secured with a snap lock; wherein the bolts can slide through a slit in the guide block for assembly purposes and the snap lock hooks around the front bolt in the locked condition. Willcox, however, teaches a guide block (62) having a slit (64) through which a bolt (16) may slide. Additionally, Fraccaro teaches a snap lock (55) that hooks around a front bolt (69) in a locked condition. It would have been obvious to one of ordinary skill in the art to include bolts upon the upper telescopic rail of Fulterer as modified by Bowzer in order to enhance the vertical adjustability of the frame; to

include a guide block, as taught by Willcox, in order to provide lateral guidance to said bolts (as suggested by Willcox); and to include a snap lock, as taught by Fraccaro, in order to allow locking of the cabinet of said structure; thereby providing the structure substantially as claimed.

27. Claims 6/1, 6/2, & 6/3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966) and Bowzer (2,546,149) as applied to the claim(s) above, further in view of Banicevic (2002/0153816). Fulterer & Bowzer teach(es) the structure substantially as claimed, including a furniture front (29) attached to the front segment of the frame (40) by means of attachment straps (46) affixed horizontally & spaced apart vertically upon said furniture front. The only difference between Fulterer & Bowzer and the invention as claimed is that Fulterer & Bowzer fail(s) to teach adjustment blocks screwed to a frame in a matching fashion. Banicevic, however, teaches connecting means, for connecting attachment straps (96) to a frame (120), comprising adjustment blocks (40) screwed thereto in a matching fashion. Whereas the connecting means of Fulterer as modified by Bowzer and that of Banicevic are both equivalent alternative structures for accomplishing similar purposes, it therefore would have been obvious to one of ordinary skill in the art to replace the connecting means of Fulterer as modified by Bowzer with a connecting means as taught by Banicevic, since the results of such a substitution would have been predictable; thereby providing the structure substantially as claimed.

28. Claims 6/4 & 6/5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966), Bowzer (2,546,149), Willcox (4,746,152) & Fraccaro (6,390,574) as applied to the claim(s) above, further in view of Banicevic (2002/0153816). Fulterer, Willcox, Fraccaro, & Bowzer teach(es) the structure substantially as claimed, including a furniture front (29) attached to the front segment of the frame (40) by means of attachment straps (46) affixed horizontally &

spaced apart vertically upon said furniture front. The only difference between Fulterer, Willcox, Fraccaro, & Bowzer and the invention as claimed is that Fulterer, Willcox, Fraccaro, & Bowzer fail(s) to teach adjustment blocks screwed to a frame in a matching fashion. Banicevic, however, teaches connecting means, for connecting attachment straps (96) to a frame (120), comprising adjustment blocks (40) screwed thereto in a matching fashion. Whereas the connecting means of Fulterer as modified by Bowzer, Willcox, & Fraccaro, and that of Banicevic are both equivalent alternative structures for accomplishing similar purposes, it therefore would have been obvious to one of ordinary skill in the art to replace the connecting means of Fulterer as modified by Bowzer, Willcox, & Fraccaro with a connecting means as taught by Banicevic, since the results of such a substitution would have been predictable; thereby providing the structure substantially as claimed.

29. Claims 7/6/1, 7/6/2, 7/6/3, 8/7/6/1, 8/7/6/2, 8/7/6/3, 9/8/7/6/1, 9/8/7/6/2, & 9/8/7/6/3, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966), Bowzer (2,546,149), and Banicevic (2002/0153816) as applied to the claim(s) above, further in view of Marios (5,617,642).

30. Fulterer, Bowzer, & Banicevic teach(es) the structure substantially as claimed, including adjustment straps & blocks; wherein fasteners are attached to the fastening blocks (col. 5, lines 33-36 of Banicevic); wherein the furniture front is additionally attached to said frame via attachment means.

31. The only difference between Fulterer, Bowzer, & Banicevic and the invention as claimed is that Fulterer, Bowzer, & Banicevic fail(s) to teach adjustment straps having elongated holes capable of permitting horizontal & vertical adjustments; wherein fastening screws are screwed

into the adjustment blocks; wherein the spacing between the respective adjustment strap and fastening block is adjusted by means of adjustment screws; and wherein the furniture front is additionally attached by means of screws in elongated holes on the frame.

32. Marios, however, teaches elongated holes (31, 33) capable of permitting horizontal or vertical adjustments. Additionally, Banicevic teaches fastening screws for use in attaching one structure to another (col. 4, lines 38-41). Additionally, Fulterer teaches adjustment screws (15) for adjusting the position of one structure relative to another structure.

33. It would have been obvious to one of ordinary skill in the art to include elongated holes, as taught by Marios, in the adjustment straps & frame of Fulterer as modified by Bowzer & Banicevic in order to provide adjustability, since the provision of adjustability has been held to involve only routine skill in the art; to utilize fastening screws, as taught by Banicevic, to secure the adjustment straps of Fulterer as modified by Bowzer, Banicevic, & Marios, to the adjustment blocks thereof, and to secure the furniture front to the frame thereof, in order to provide a more secure structure; and to include adjustment screws between the adjustment straps & adjustment blocks thereof, in order to provide adjustability, since the provision of adjustability has been held to involve only routine skill in the art; thereby providing the structure substantially as claimed.

34. Claims 7/6/4, 7/6/5, 8/7/6/4, 8/7/6/5, 9/8/7/6/4, & 9/8/7/6/5, are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966), Bowzer (2,546,149), Willcox (4,746,152), Fraccaro (6,390,574) and Banicevic (2002/0153816) as applied to the claim(s) above, further in view of Marios (5,617,642).

35. Fulterer, Willcox, Fraccaro, Bowzer, & Banicevic teach(es) the structure substantially as claimed, including adjustment straps & blocks; wherein fasteners are attached to the fastening

blocks (col. 5, lines 33-36 of Banicevic); wherein the furniture front is additionally attached to said frame via attachment means.

36. The only difference between Fulterer, Willcox, Fraccaro, Bowzer, & Banicevic and the invention as claimed is that Fulterer, Willcox, Fraccaro, Bowzer, & Banicevic fail(s) to teach adjustment straps having elongated holes capable of permitting horizontal & vertical adjustments; wherein fastening screws are screwed into the adjustment blocks; wherein the spacing between the respective adjustment strap and fastening block is adjusted by means of adjustment screws; and wherein the furniture front is additionally attached by means of screws in elongated holes on the frame.

37. Marios, however, teaches elongated holes (31, 33) capable of permitting horizontal or vertical adjustments. Additionally, Banicevic teaches fastening screws for use in attaching one structure to another (col. 4, lines 38-41). Additionally, Fulterer teaches adjustment screws (15) for adjusting the position of one structure relative to another structure.

38. It would have been obvious to one of ordinary skill in the art to include elongated holes, as taught by Marios, in the adjustment straps & frame of Fulterer as modified by Bowzer, Willcox, Fraccaro & Banicevic in order to provide adjustability, since the provision of adjustability has been held to involve only routine skill in the art; to utilize fastening screws, as taught by Banicevic, to secure the adjustment straps of Fulterer as modified by Bowzer, Willcox, Fraccaro, Banicevic, & Marios, to the adjustment blocks thereof, and to secure the furniture front to the frame thereof, in order to provide a more secure structure; and to include adjustment screws between the adjustment straps & adjustment blocks thereof, in order to provide

adjustability, since the provision of adjustability has been held to involve only routine skill in the art; thereby providing the structure substantially as claimed.

39. Claims 10 & 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966) and Bowzer (2,546,149) as applied to the claim(s) above, further in view of Salice (2002/0033658), Welch (6,394,567), & Banicevic (2002/0153816). Fulterer & Bowzer teach(es) the structure substantially as claimed, including a lower telescopic rail. The only difference between Fulterer & Bowzer and the invention as claimed is that Fulterer & Bowzer fail(s) to teach clearly teach a telescopic rail held with a front & rear metal support plate; and a buffer, with a limit stop, integrated into said lower telescopic rail. Welch, however, teaches a telescopic rail (28) held with front & rear support plates (23). Additionally, Salice teaches a buffer (50) & limit stop (57) integrated into a rail structure. Additionally, Banicevic teaches making structures from metal. It would have been obvious to one of ordinary skill in the art to include front & rear support plates, as taught by Welch, upon the telescopic rail of Fulterer as modified by Bowzer in order to provide support thereto; to include a buffer & limit stop, as taught by Salice, upon the rail structure of Fulterer as modified by Bowzer in order to provide shock absorption; and to make the support plates & limit stop of Fulterer as modified by Bowzer, Salice, & Welch from metal, as taught by Banicevic, in order to provide additional reinforcement thereto; thereby providing the structure substantially as claimed.

40. Regarding claim 13, Salice teaches a limit stop formed by a folded up angle in a support plate (combination of 55 & 56).

41. Claims 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966), Bowzer (2,546,149), Salice (2002/0033658), Welch (6,394,567), & Banicevic (2002/0153816) as applied to the claim(s) above, further in view of Manlove (3,837,721).

42. Fulterer, Bowzer, Ssalice, Welch, & Banicevic teach(es) the structure substantially as claimed, including a buffer (50 of Salice), a holder (52), and a lower telescopic rail having a bolt formed by the nut (12) of the rear height adjustment screw (15). The examiner points out that whereas Item 12 is internally threaded & rotatable relative to Item 15, Item 12 can therefore be termed a "nut"; and that since, according to claim 12, a nut can be a bolt, Item 12 can therefore be also termed a "bolt". The examiner also points out that, alternately, whereas Banicevic teaches screws for securing one structure to another, it therefore would have been obvious to one of ordinary skill in the art to utilize screws to mount the holder of Fulterer as modified by Bowzer, Ssalice, Welch, & Banicevic to the lower telescopic rail thereof; and that such a modification would have obviously produce a structure wherein the lower telescopic rail possessed a bolt (i.e., at least one of the screws used for attachment) formed by (i.e., adjacent) the nut (12) of the rear height adjustment screw (15). The examiner points out that whereas Salice teaches locating a buffer near the rear of a telescopic rail, and whereas Fulterer teaches a bolt near the rear of the telescopic rail thereof, it can therefore be concluded that including a buffer, as taught by Salice, upon the lower telescopic rail of Fulterer would obviously produce a structure wherein said is attached to said lower telescopic rail by means of a holder at a bolt.

43. The only difference between Fulterer, Bowzer, Salice, Welch, & Banicevic and the invention as claimed is that Fulterer, Bowzer, Ssalice, Welch, & Banicevic fail(s) to teach a buffer snapped into the lower telescopic rail by means of a holder at a bolt. Manlove, however,

teaches a snapping connection for a cylindrical structure (20). It would have been obvious to one of ordinary skill in the art to utilize a snapping connection, as taught by Manlove, to secure the buffer of Fulterer as modified by Bowzer, Ssalice, Welch, & Banicevic to the lower telescopic rail thereof, in order to allow easier assembly & replacement, thereby providing the structure substantially as claimed.

44. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fulterer (6,199,966), Bowzer (2,546,149), Salice (2002/0033658), Welch (6,394,567), & Banicevic (2002/0153816) as applied to the claim(s) above, further in view of Noll (4,230,001). Fulterer, Bowzer, Ssalice, Welch, & Banicevic teach(es) the structure substantially as claimed, including a pneumatic buffer (50 of Salice). The only difference between Fulterer, Bowzer, Ssalice, Welch, & Banicevic and the invention as claimed is that Fulterer, Bowzer, Ssalice, Welch, & Banicevic fail(s) to teach a pneumatic buffer comprising a reset spring. Noll, however, teaches a pneumatic device comprising a reset spring (18). It would have been obvious to one of ordinary skill in the art to include a reset spring in the pneumatic buffer of Fulterer as modified by Bowzer, Ssalice, Welch, & Banicevic in order to allow said buffer to reset more readily, thereby providing the structure substantially as claimed.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW W. ING whose telephone number is (571)272-6536. The examiner can normally be reached on Monday through Friday, 7:30 am - 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MWI
23 July 2008
/José V. Chen/
Primary Examiner, Art Unit 3637